

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : Crim. No. 1:14-cr-015

v. :

NATHAN MOSLEY : Judge Sylvia H. Rambo

M E M O R A N D U M

Before the court is a motion filed pursuant to 18 U.S.C. § 2255 by Defendant Nathan Mosley (“Mosley”). In the motion, Mosley claims that Hobbs Act robbery, in violation of 18 U.S.C. § 1951, is not a crime of violence pursuant to *Johnson v. United States*, ____ U.S. ___, 135 S. Ct. 2551 (2015), a case in which the Supreme Court held that the residual clause of the Armed Career Criminal Act (“ACCA”) is unconstitutionally vague. Mosley claims that the application of § 924(c)(3)(B)’s residual clause is the same as the residual clause contained in the ACCA, and is therefore unconstitutional.

I. Discussion

A stay of the motion was granted pending a decision in *United States v. Robinson*, 844 F.3d 137 (3d Cir. 2016). On December 19, 2016, the Third Circuit rendered a decision and held that, where the offense of robbery and brandishing a gun have been tried together and the defendant has been found guilty¹ of both offenses, Hobbs Act robbery qualifies as a crime of violence under §

¹ Mosley pleaded guilty to both offenses.

924(c)(3)(A)'s elements clause. *Id.* at 141. Therefore, the application of § 924(c)(3)(A)'s residual clause is not necessary.

II. Conclusion

For the foregoing reason, the motion will be denied. An appropriate order will issue.

s/Sylvia H. Rambo

SYLVIA H. RAMBO

United States District Judge

Dated: May 16, 2017